

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DONALD AND BONNIE POLLARD,
et al.

Plaintiffs,

Case No. 3:23-CV-135-wmc

v.

JOHN JOHNSON, SR.,
et al.

Defendants.

Defendants' Motion to Dismiss Plaintiffs' Amended Complaint

The Defendants, Lac du Flambeau Tribal Council President John Johnson, Sr., Lac du Flambeau Tribal Council Vice President George W. Thompson, Lac du Flambeau Tribal Council Treasurer William J. Stone Sr., Lac du Flambeau Tribal Council Secretary Jamie Ann Marie Allen, and Lac du Flambeau Tribal Council Members Raymond Allen, Jeffery Bauman, Sr., Eric Chapman, Sr., Lyle Thomas Chapman, Paula Poupart, Louis St. Germaine, Joseph Wildcat, Sr., and Patricia Zimmerman respectfully request that this matter be dismissed for the following reasons:

1. Under Fed. R. Civ. P. 12(b)(1), the Court must dismiss the claims in Count I of the Plaintiffs' Amended Complaint because the Plaintiffs have failed to raise a federal question sufficient to provide this Court with subject matter jurisdiction;
2. Under Fed. R. Civ. P. 12(b)(6), the Court must dismiss the Plaintiffs' claims for failure to state a claim upon which relief can be granted because the Defendants are elected Tribal Council officials of a sovereign federally recognized Indian tribe, and as such, are

shielded by the doctrine of sovereign immunity, and the Plaintiffs cannot show any *ultra vires* actions;

3. Under Fed. R. Civ. P. 12(b)(6), the Court must dismiss the Plaintiffs' Count IV because it has failed to state a claim upon which relief can be granted for an implied easement;
4. Under Fed. R. Civ. P. 12(b)(7), the Court must dismiss the Plaintiffs' claims for failure to join a required party because Plaintiffs have failed to name the Lac du Flambeau Band of Lake Superior Chippewa Indians and because Plaintiffs have failed to name the United States of America as Defendants; and
5. The Court should exercise its discretion to decline to exercise supplemental jurisdiction over the state law claims raised in Counts II and III of the Plaintiffs' Amended Complaint.

This motion is supported by the Brief in Support of Defendants' Motion to Dismiss Plaintiffs' Amended Complaint.

The Defendants respectfully request that the Court dismiss this case in its entirety.

Dated: April 10, 2023

RESPECTFULLY SUBMITTED:

/s/ Andrew Adams III
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